

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, June 2, 2003

Division Two

**A101463 -- The People v. Mitchell Kade Klatka.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

**A101383 -- Carl Joseph Tessier v. Sohal Express, et al.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

Division Three

**A096216 -- The People v. Shawnte Gullledge.**

**A096254 -- The People v. Dameon Franklin et al.**

The judgments are affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

**A100355 -- The People v. Richard Ashline.**

The judgment of conviction is affirmed. The matter is remanded to the trial court with instructions to prepare a new and corrected abstract of judgment, indicating a total sentence of ten years four months, as set forth in this opinion, and to forward a copy of the corrected abstract of judgment to the Department of Corrections. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, June 3, 2003

Division Two

**A099664 -- In re Grady B., a Person Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. Sonja B.**

The order of the juvenile court terminating appellant's parental rights to Grady is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Four

**A094945 -- The People v. Curtis Odham.**

**A095354 -- The People v. Leland Griffin.**

The judgments are affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, June 3, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J., and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A095055      People  
                 v.  
                 Quincy Darnell Robertson  
Cause called. Juliana Drous argued for appellant Robertson. Deputy Attorney General William Kuimelis argued for respondent. Cause submitted.

A100272      David Stringer  
                 v.  
                 Lanei Stringer  
Cause called. Richard Guadagni argued for appellant David Stringer. Edward Sullivan argued for respondent. Cause submitted.

At this point the Court reconstituted itself from Kay, P.J., Reardon, J., and Rivera, J. to Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A097959      Holden H. Lee  
                 v.  
                 Janet J. Yang  
Cause called. Daniel A. Conrad argued for appellant Lee. Peter Sandmann argued for respondent. Cause submitted.

A098790      Eugene Rapp et al.  
A100157      v.  
                 United Title Companies  
Causes called. Orin Grover argued for appellants Rapp et al. Ralph J. Swanson and Pamela Ferguson argued for respondent. Causes submitted.

A098114      Jeff Kamler et al.  
                 v.  
                 Marin Community College District et al.  
Cause called. Larry Frierson argued for appellants Marin Community College District et al. Robert Bezemek argued for respondents. Cause submitted.

The Court adjourned at 11:41 a.m.

Tuesday, June 3, 2003 (continued)

Division Five

**A102262 -- Marie Z. Brandstetter v. Frank E. Lembi, et al.**

By the Court: This is an appeal taken by defendants Frank E. Lembi and John Kockos from a February 27, 2003 “Order After Hearing” in San Mateo Superior Court case No. 411164. On April 11, 2003, defendants filed a notice of appeal from that order. On May 5, 2003, defendants filed their civil case information statement in this court, asserting that this appeal is appealable as an “Order final on issues embraced ([Code Civ. Proc., § 904.1]).” (See order.) We therefore dismiss this appeal for lack of jurisdiction, without prejudice to the filing of an appropriate notice of appeal once an appropriate final judgment has been entered in the trial court. Plaintiff shall recover her costs, if any, on this appeal. (Cal. Rules of Court, rule 27(a).) It is so ordered. Jones, P.J.

Wednesday, June 4, 2003

Division One

**A099097 -- The People v. Frank Eugene Arconti.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A102315 -- Sergio C. v. The Superior Court of San Francisco County; San Francisco County Department of Human Services, et al., R.P.I.**

The petition for extraordinary writ is denied on the merits. The section 366.26 hearing is set for August 13, 2003. Therefore, this petition is final as to this court immediately. (Cal. Rules of Court, rule 24 (b)(3).) Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098998 -- The People v. Wanda June Kibby.**

The judgment of conviction is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A097460 -- Robert M. Levy v. Skywalker Sound, et al.**

By the Court: The petition for rehearing or in the alternative for modification of opinion is denied. Kline, P.J.

Division Three

**A097736 -- Dillingham Construction, N.A., Inc. v. Argonaut Constructors.**

The appeal is dismissed. Each party to bear its own costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Wednesday, June 4, 2003 (continued)

Division Four

**A100318 -- Jon Elvin v. Arthur Elvin, as Trustee, etc.**

The order appealed from is affirmed. Respondent Jon Elvin shall recover his costs on appeal. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A099834 -- James Conway v. California Trust Deeds, Inc.**

The judgment of dismissal in favor of defendant CTD is affirmed. CTD shall recover its costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A098443 -- The People v. Jimmy Hickman.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A100047 -- Kinuko Jorgensen v. Fire Insurance Exchange & Jeffrey S. Lee.**

The judgment of dismissal is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

**A100217 -- The People v. Gary Steven LaTorre.**

The judgment is affirmed. The matter is remanded for the administrative correction of the abstract of judgment to reflect the concurrent two-year term for count 4 of the information imposed by the court at sentencing. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Thursday, June 5, 2003

Division One

**A098211 -- The People v. Mario Ornelas Dominquez.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

**A098393 -- Richard Popkin et al. v. City of American Canyon et al.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A102051 -- Lavonne Ginty v. Park Study Club.**

By the Court: It appearing that the appellant is in default pursuant to California Rules of Court, Rule 1(f) the appeal filed 4-7-03, is dismissed. Kline, P.J.

Division Five

**A097869 -- The People v. John Simon.**

The order of commitment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, June 06, 2003

Division One

**A100138 -- In re Omari D., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Tashia F.**

The jurisdictional and dispositional orders are affirmed. Stein, Acting P.J.  
We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098627 -- The People v. Michael F. Odom.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A099971 -- Thomas Proulx et al., etc. v. Steven Murray et al.**

The judgment is reversed. Costs are awarded to appellants. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A092693 -- The People v. Joseph Ray Walker.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A098623 -- Reggie Wong v. Ed Wong.**

The judgment is affirmed. Costs on appeal awarded to respondent. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A100450 -- In re Edward W., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Candis W.**

The juvenile court's orders are reversed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)



Friday, June 06, 2003 (continued)

Division Four

**A100900 -- In re Dante L., a Person Coming Under the Juvenile Court Law. The People v. Dante L.**

The dispositional order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A099894 -- In re M.T. et al., Minors. Daniel W. et al. v. Kimberly T.**

The judgment is reversed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A099912 -- St. Paul Mercury Insurance Company v. Vahdani Construction Co., Inc.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A101033 -- The People v. Michael J. Lawrence.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Monday, June 09, 2003

Division One

**A100118 -- In re the Marriage of Judith Connolly and Garry G. Coppers.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A097446 -- The People v. Larry Joe McDougal.**

The judgment is reversed insofar as it dismissed counts I and II. In all other respects the judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication.)

Division Two

**A097622 -- Estate of Al Russo, Deceased.**

The judgment is affirmed. Costs on appeal are awarded to Jackson. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

**A098790, A100157 -- Eugene A. Rapp et al. v. United Title Companies, Inc., et al.**

We reverse the judgment in favor of UTC on appellants' breach of Agreement cause of action because there is a triable issue of fact as to the failure to pay the minimum \$70 additional price per share to appellants. Likewise, we reverse the award of attorney fees to UTC. Finally, we affirm the judgment of dismissal as to FHA. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Monday, June 09, 2003 (continued)

Division Five

**A099351 -- Billy Weiyu Loo et al. v. Artichoke Joe's et al.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J.,  
Gemello, J. (Not for Publication.)

Tuesday, June 10, 2003

Division One

**A100650 -- The People v. Mario Herrera.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A099386 -- In re Archie J., a Person Coming Under the Juvenile Court Law. The People v. Archie J.**

The CYA commitment, including the section 290 notice provision, is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A098795 -- Lisa Hair v. Schawali Moslempoor.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A099089 -- In re Andrew S., a Person Coming Under the Juvenile Court Law. The People v. Andrew S.**

The order of the juvenile court is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Tuesday, June 10, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli, J., and Simons, J. (Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution), and I. Calanoc, Deputy Clerk.

A094398 McCubbrey, Bartels & Ward, et al.

v.

D'Amato & Lynch, et al.

Cause called and argued by Malcolm Misuraca, counsel for appellants, and James Krieg, counsel for respondents. Cause ordered submitted.

A095856 McCubbrey, Bartels & Ward, et al.

A098362 v.

Lewis, D'Amato, Brisbois & Bisgaard, et al.

Cause called and argued by Malcolm Misuraca, counsel for appellants; and Steven Anthony and Thomas Fellows, counsel for respondents. Cause ordered submitted.

Simons, J. left the bench after the above cases were heard. Pollak, J. approached the bench.

A098603 Andre Jones,

v.

Avis Rent A Car Systems, Inc. et al.

Cause called and argued by Richard Carlson, counsel for appellant; and Diane Crowley and Guy Stilson, counsel for respondents. Cause ordered submitted.

A096749 Vitton Construction Company, Inc., et al.

v.

Pacific Insurance Company.

Cause called and argued by James Wagoner, counsel for appellants, and Steven Bitter, counsel for respondent. Cause ordered submitted.

A098610 Philip Travis,  
v.  
Bruce Choder, et al.  
Cause called and argued by Harold Truett, counsel for appellant; and Harvey Roberts (via teleconference), Daphne Beletsis and Roxanne Huddleston, counsel for respondents. Cause ordered submitted.

A094833 Ruslan Torshkoev, et al.,  
v.  
Yury Trubnikov, et al.  
Cause called and argued by John Warner, counsel for appellants, and Gary Oswald, counsel for respondents. Cause ordered submitted.

McGuiness, P.J. approached the bench.

A097976 Juanita Ambers,  
v.  
Peck & Peck Insurance, et al.  
McGuiness, P.J. announced that the panel for this case is comprised of Parrilli, J., Pollak, J. and McGuiness, P.J. Cause called and argued by Tesfaye Tsadik, counsel for appellant; and Mark Lee and Brian Newcomb, counsel for respondents. Cause ordered submitted.

Parrilli, J. left the bench after the above case was heard.

A097487 Operating Engineers Local 3, et al.  
v.  
Sylvia J. Johnson, et al.  
The panel is now comprised of Pollak, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by Vincent Harrington, counsel for appellants, and Andrea Carlise, counsel for respondents. Cause ordered submitted.

A098670 The People,  
v.  
Scott Blane Stancil, et al.  
Cause called and argued by Rene Chacon, counsel for appellant; and Solomon Wollack and Arthur Wong, counsel for respondents.

COURT ADJOURNED

Tuesday, June 10, 2003 (continued)

Division Five

**A100522 -- In re Jerome C., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Jerome C., Sr.**

The order is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

**A098273 -- The People v. Michael Ellison.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

**A099356 -- In re the Marriage of Anthony Pavone and Joan Lynch.**

The judgment is ordered modified to add \$6,175 to Pavone's award of Watts credits, thereby increasing the total award of credits to \$13,767.50. As so modified, the judgment is affirmed. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A101105 -- George S. Wong v. Medical Board of California et al.**

The order of dismissal is affirmed. Defendants shall recover their costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A101369 -- The People v. Jose Miguel Zuniga-Vasquez.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, June 11, 2003

Division One

**A098989 -- The People v. Karmal Dexter Howard.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A099918 -- Raul Barraza v. Maria Barraza et al.**

The judgment is affirmed. Escobar shall recover her costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A094835 -- The People v. Carleton Cook.**

The judgment is reversed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A097803 -- The People v. Darrell W. Kirtley.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)



## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, June 11, 2003

The Court met at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J. and I. Santos, Deputy Clerk.

- A098354     Marianne O’Keefe et al.,  
                 v.  
                 Linda Phillion et al.  
                 Cause called and argued by Lawrence Schonbrun, counsel for appellant ,  
                 and Elizabeth Cabraser, counsel for respondent. Cause ordered submitted.
- A099643     Cheryl T. Moore et al.,  
                 v.  
                 Rob Disharoon et al.  
                 Cause called and argued by Michael Boli, counsel for appellant, and  
                 Michael D. Senneff, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, June 12, 2003 at 9:30 a.m.

Wednesday, June 11, 2003 (continued)

Division Four

**A099841, A100016 -- In re Markelle T., a Person Coming Under the  
Juvenile Court Law. Alameda County Social Services Agency v. Marjorie T.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.  
(Not for Publication.)

Thursday, June 12, 2003

Division One

**A100249 -- The People v. Christopher Young Scott.**

The motion to suppress was properly denied. The judgment of conviction, based on the guilty pleas, is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A096946, A097317 -- In re Chevron Fire Cases.**

The orders denying certification of shelter-in-place and punitive damage classes are reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A097420 -- Egnacio R. "Nash" Balinton v. City and County of San Francisco et al.**

The appeal is dismissed as moot. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A099229 -- Donald P. Driscoll v. OSF International, Inc.**

The judgment of dismissal is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Thursday, June 12, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J., and S. Graham, Deputy Clerk.

- A098085     The People  
                 v.  
                 John Medley Johnson  
Cause called and argued by Douglas MacMaster, Deputy Attorney General, counsel for appellants and Ron Boyer, counsel for respondent. Cause ordered submitted.
- A098693     Yuriy Skipakevich  
                 v.  
                 Maria Majda Skipakevich  
Cause called and argued by Yuriy Skipakevich, appellant in propria persona and Anne Thorkelson, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first case would be himself and Justices Lambden and Ruvolo. The panel for the second case would be himself and Justices Haerle and Ruvolo and that the panel for the third case would consist of Justices Haerle, Lambden and Ruvolo.

- A097226     The People  
              v.  
              Anthony Pina  
Cause called and argued by Mark D. Greenberg, counsel for appellant and Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A101643     Willie James Staten, III  
              v.  
              Superior Court, Alameda County  
              The People  
Cause called and argued telephonically by Paul Feuerwerker, counsel for petitioner and Jeanine Nadel, Deputy County Counsel, counsel for respondent. Cause ordered submitted.
- A096519     Brickyard Landing Owners Assoc.  
              v.  
              BYL Phase V Associates, LLC, et al.  
Cause called and argued by Matthew Taylor, counsel for appellants and Branden Bickel, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, June 12, 2003 (continued)

Division Three

**A092716 -- The People v. Gonzalo Alcala.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A097976 -- Juanita Ambers v. Peck & Peck Insurance, et al.**

The order and judgment of dismissal is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A099665 -- In re Zuquete H., a Person Coming Under the Juvenile Court Law. The People v. Zuquete H.**

The matter is remanded with directions to the juvenile court to modify the commitment order to recite that the term for attempted sexual battery is two months and the minor's maximum period of confinement is not to exceed five years, six months, and thereafter send the amended commitment order to the California Youth Authority. The July 19, 2002, commitment order is otherwise affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A092787 -- The People v. Jose Marin.**

The cause is remanded for the calculation and award of presentence conduct credits in accordance with the law in effect at the time of the offenses and the *People v. Hutchins*, *supra*, 90 Cal.App.4th at pp. 1315-1317. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A100601 -- Larry WM. Ambrosini v. Melanie Ambrosini Waterson et al.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Friday, June 13, 2003

Division One

**A100327 -- Communities For A Better Environment, et al. v. California State Water Resources Control Board, et al., Tesoro Refining and Marketing Company, R.P.I.**

By the Court: The written opinion which was filed on May 30, 2003, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Marchiano, P.J.

**A098118 -- Friends of the Eel River et al. v. Sonoma County Water Agency; Pacific Gas and Electric Company, R.P.I.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on May 16, 2003 be modified as follows: (See order.) There is no change in the judgment. Appellants' petition for rehearing is denied. Respondent's petition for rehearing is denied. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

**A099367 -- In re Benjamin Z., a Person Coming Under the Juvenile Court Law. The People v. Benjamin Z.**

Accordingly, the judgment is reversed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

**A096752 -- The People v. Curtis LeCompte.**

The Court: Order Denying Petition For Rehearing. The petition for rehearing is denied as to appellant Curtis LeCompte. McGuiness, P.J.

**A096250 -- The People v. Douglas Henry LeCorno.**

The judgment is reversed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

Friday, June 13, 2003 (continued)

Division Four

**A099024 -- In re Douglas H., a Person Coming Under the Juvenile Court Law. The People v. Douglas H.**

The order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A099992 -- The People v. Ronald Vonn Prince, Jr.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A099176 - The People v. Wallace John Thomson.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)



Monday, June 16, 2003

Division One

**A099581 -- In re Ryan D. and Anthony S., Persons Coming Under the Juvenile Court Law. Sonoma County Social Services Agency v. Anthony S. and Shauna D.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A102752 -- Ernest Brown v. The Superior Court of San Francisco County; The People of the State of California, R.P.I.**

By the Court:\* We have reached our decision after notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) The entitlement to relief is obvious (*See Alexander v. Superior Court* (1993) 5 Cal.4th 1218; *Ng v. Superior Court* (1992) 4 Cal.4th 29.) Accordingly, let a peremptory writ of prohibition issue restraining respondent court from taking any further proceedings, including trial, in the above-entitled action against petitioner. Our decision is final as to this court immediately. (Cal.Rules of Court, rule 24(d).) (Not for Publication.)

\*Before Kline, P.J., Lambden, J., and Ruvolo, J.

**A099697 -- Linda Harrington v. U.S. Bank National Association.**

The trial court's order denying the motion to set aside the default judgment is reversed and the trial court is directed to enter a new and different order granting U.S. Bank's motion to set aside the default judgment as void, and directing U.S. Bank to file its responsive pleading forthwith. Each party shall bear its own costs on appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Monday, June 16, 2003 (continued)

Division Three

**A098986 -- The People v. Jesus Armando Aveytia.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A102422 -- Godfrey J. v. The Superior Court of San Francisco County; San Francisco County Social Services Agency, R.P.I.**

The petition is granted. Let a writ issue directing the juvenile court to vacate its orders setting section 366.26 hearings, and to ensure that the agency has properly notified the tribes identified as having potential rights under the ICWA. If no tribe intervenes after receiving notice, the court shall reinstate its orders. Our decision is final immediately as to this court. (Rule 24(d).) Pending the issuance of the remittitur, the section 366.26 hearings are stayed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A098603 -- Andre Jones v. Avis Rent a Car System, Inc., et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal. The cross-appeals are dismissed as moot. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A094623 -- In re Marriage of Priscilla Mata and Rodolfo Haloot Mata.**

The judgment is reversed and the case is remanded for the sole purpose of recalculating the proper division of the community estate in a fashion consistent with Family Code sections 2550 and 2622, subdivision (b), and the views expressed in this opinion. Wife's motion for sanctions for filing a frivolous appeal is denied. Each party to bear his or her costs of appeal. McGuiness, P.J. I concur: Parrilli, J. (See concurring opinion by Pollak, J.) (Not for Publication.)

**A096554 -- In re Marriage of Priscilla and Rodolfo Haloot Mata, Jr.**

The appeal is dismissed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Monday, June 16, 2003 (continued)

**A100140 -- In re Trista S., Stephanie S., Logan S., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Barbara S.**

Accordingly, the appeal from the order of August 30, 2002, is hereby dismissed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A094833 -- Ruslan Torshkoev et al. v. Yury Trubnikov et al.**

The judgment is affirmed. Respondents are awarded their costs on appeal, and sanctions in the amount of their reasonable appellate attorney fees. On remand, the trial court shall determine the amount of the sanctions payable by appellants and their counsel. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A102046 -- Erica B. v. The Superior Court of Contra Costa County; Department of Social Services of Contra Costa County, R.P.I.**

The petition is denied on the merits. This decision is final as to this court immediately. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Tuesday, June 17, 2003

Division One

**A101346 -- The People v. Nicanor Deltoro.**

The motion to suppress should have been denied. The order of dismissal is reversed and the cause remanded to the trial court with instructions to reinstate the criminal proceedings against defendant, and to enter an order denying the motion to suppress. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A099748 -- The People v. James Charles Koller.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A100622 -- Rocky Mountain Wholesale, Inc. v. Home Exteriors, Inc.**

The order subject to appeal is reversed and the cause is remanded for further proceedings consistent with this opinion. Costs are awarded to defendant. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, June 17, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A100780 Araceli Martinez

v.

Univision Television Group

Cause called. Angela Alioto argued for appellant Martinez. Frank Birchfield argued for respondent. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consists of Kay, P.J., Sepulveda, J. and Rivera, J.

A099619 James Miles

v.

State of California et al.

Cause called. Each counsel confirmed waiving Justice Rivera's presence. John H. Scott argued for appellant Miles. Diana L. Cuomo argued for respondents. Cause submitted.

The Court adjourned at 10:37 a.m.

Wednesday, June 18, 2003

Division One

**A098849 -- The People v. Alvaro Maravillas.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, June 18, 2003

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., Margulies, J., and F. Abad, Deputy Clerk.

- A099023     In re Jasmine C.,  
                 Social Services Agency,  
                 v.  
                 Jasmine C., et al.  
Cause called and argued by Caroline Todd, counsel for appellant, Janet Sherwood, counsel for minors, and Patricia Lowe, counsel for respondent. Cause ordered submitted.
- A098377     In re the Estate of June D. Schnacke.  
                 William Locke-Paddon,  
                 v.  
                 Maria Borina.  
Cause called and argued by Maria Borina, appellant, and Robert Johnson, counsel for respondent via teleconferencing. Cause ordered submitted.
- A096042     The People,  
                 v.  
                 Timothy Charles Giangiobbe.  
Cause called and argued by Laureen Bethards, counsel for appellant via teleconferencing, and Ping Tao, certified law student, for respondent. Cause ordered submitted.
- A101160     Frank Pedersen, Jr.,  
                 v.  
                 Signal System, Ltd., et al.  
Cause called and argued by Ronald Kaplan, counsel for appellants via teleconferencing, and Craig Fox, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Marchiano left the bench and Justice Stein joined the bench. Justice Stein presided over the remainder of the session.



A099737      Berg & Parker, LLP.,  
v.  
Information System & Networks Corp.  
Cause called and argued by Charles Smith, counsel for appellant, and Paul  
Vallone, counsel for respondent via teleconferencing. Cause ordered  
submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, June 18, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

- A097186     The People,  
              v.  
              Michael Devon Burrus.  
Cause called and argued by Donald R. Tickle, counsel for appellant, and Ross Moody, counsel for respondent. Cause ordered submitted.
- A098590     Cathleen Gilliam,  
              v.  
              William Jeffrey Gilliam.  
Cause called and argued by William H. McPherson, counsel for appellant, and Cathleen Gilliam, respondent in pro per. Cause ordered submitted.
- A101343     In re the Estate of Miguel Rossello, Jr.  
              Maria Guzman,  
              v.  
              John Hearney, et al.  
Cause called and argued by Richard A. Canatella, counsel for appellant, and Richard K. Veres, counsel for respondents. Cause ordered submitted.
- A098113     Safeco Insurance Company,  
              v.  
              California Capital Insurance Company.  
Cause called and argued by Lance D. Orloff, counsel for appellant, and Thomas B. Spaulding, counsel for respondent. Cause ordered submitted.

Court adjourned.

No cases were argued on June 19, 2003.

Wednesday, June 18, 2003 (continued)

Division Two

**A099043 -- The People v. Robert Bruce Boreham.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A099512 -- The People v. Roy E. Watkins.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A098775 -- The People v. Timothy Boyles.**

The judgment is affirmed. The clerk of the superior court is directed to issue an amended minute order indicating that Boyles admitted a Penal Code section 12022, subdivision (c) enhancement to Count 1 and a Penal Code section 12022, subdivision (a)(1) enhancement to Count 2. The amended minute order should also state that the court stayed imposition of sentence on the Penal Code section 12022, subdivision (a)(1) enhancement to Count 2. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A097090 -- The People v. Timothy Boyles.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A098396 -- Kids Against Pollution et al. v. California Dental Association.**

By the Court: Respondents' petition for rehearing and appellant's motion for judicial notice in opposition to the petition are denied. McGuinness, P.J.

Wednesday, June 18, 2003 (continued)

**A099934 -- In re Destini P., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Oscar P.**

The order terminating reunification services is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A099876 -- The People v. Michael John Robertson.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A098610 -- Philip Travis v. Bruce Choder et al.**

The judgment is affirmed. Defendants shall recover their costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A101466 -- The People v. Christopher Warren Wapniarski.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A094272 -- Dead Kennedys et al. v. Jello Biafra.**

The judgment finding in favor of Biafra on his cross-claim against East Bay Ray for fraud and awarding damages of \$5,000 is reversed. The judgment for dissolution of the partnership is reversed and remanded. In all other respects, the judgment is affirmed. Respondents shall recover their costs. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Thursday, June 19, 2003

Division One

**A099905 -- Kimberly Alexander v. Dennis A. Cortes.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A097893 -- The People v. John J. Brennan.**

The abstract of judgment is modified pursuant to Penal Code section 654 to stay the sentence on the conviction under Penal Code section 76. In all other respects, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A093091 -- The People v. David Antonio Delasantos.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A100748 -- The People v. Patrick Joseph Ryden, Jr.**

The abstract of judgment is modified to include a presentence credit of 171 days instead of 169 days. As so modified, the judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A096519 -- Brickyard Landing Owners Association v. Byl Phase V Associates, LLC.**

The appeal is dismissed as moot. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A097719 -- The People v. Antonio Fernandes.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Thursday, June 19, 2003 (continued)

**A100107 -- Frederick S. Mayer et al. v. Gray Davis, as Governor, etc.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

Division Three

**A100904 -- In re Aric L., a Person Coming Under the Juvenile Court Law. The People v. Aric L.**

The juvenile court's orders are affirmed. Parrilli, J. We Concur:  
McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A100023 -- In re Kayla M., et al, Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Andrea M.**

By the Court: Appellant's petition for rehearing is denied. McGuinness,  
P.J.

Friday, June 20, 2003

Division One

**A099023 -- In re Jasmine C. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Bridget A.**

The dispositional orders of the juvenile court, including the no-contact order, are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098810 -- Ord & Norman v. David Ough et al.**

The judgment is affirmed. Respondent shall recover costs on appeal. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A101160 -- Frank Pedersen, Jr. v. Signal Systems, LTD., et al.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A099141 -- Harry Dadras v. Kristin Kempe.**

The judgment is affirmed. Kempe is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A099643 -- Cheryl T. Moore et al. v. Anderson Zeigler Disharoon Gallagher & Gray et al.**

The judgment is affirmed. Respondents are awarded their costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Certified for Publication.)

Friday, June 20, 2003 (continued)

**A101643 -- Willie James Staten III v. The Superior Court of Alameda County; People of the State of California, R.P.I.**

Let a peremptory writ of mandate issue, commanding respondent superior court to vacate its order denying petitioner's request for funding for ancillary defense services, and hold a new hearing in accordance with the views expressed in this opinion. The stay previously imposed by this court is lifted. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

**A100643 -- In re Thanh N., a Person Coming Under the Juvenile Court Law. The People v. Thanh N.**

The juvenile court's order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A096749 -- Vitton Construction Co., Inc., et al. v. Pacific Insurance Co.**

The judgment is reversed. Pacific shall bear costs of the appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Five

**A100261 -- The People v. Phillip William Sibley.**

The order permanently revoking appellant's probation is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)



Monday, June 23, 2003

Division One

**A098113 -- Safeco Insurance Company v. California Capital Insurance Company.**

The judgment is reversed and the case is remanded to the trial court with directions to enter judgment in favor of CCI. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A099689 -- In re Kendall C., a Person Coming Under the Juvenile Court Law. San Mateo County Human Service Agency v. Victor C. et al.**

The orders are affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A098844 -- In re Kendall C., a Person Coming Under the Juvenile Court Law. San Mateo County Human Service Agency v. Victor C. et al.**

The order is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A100354 -- The People v. Frederick Anthony Horr.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A098670 -- The People v. Scott Blane Stancil et al.**

The order setting aside the information is vacated and the case is remanded to the trial court. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Monday, June 23, 2003 (continued)

Division Five

**A097230 -- The People v. Robert Thomas Tiran.**

The conviction on count 13 for false imprisonment is reversed. The sentence is modified by striking the punishment imposed on count 1. The matter is remanded for imposition of the enhancement of section 667.8 on count 5, 6, 7, or 11. In all other respects, the judgment is affirmed. The trial court is directed to submit a corrected abstract of judgment to the Department of Corrections. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A092290 -- The People v. Kevin Antonio Williams.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Tuesday, June 24, 2003

Division One

**A100245 -- In re Lemanuel C., a Person Coming Under the Juvenile Court Law. The People v. Lemanuel C.**

The September 6, 2002 order extending Lemanuel's commitment for two years is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A096042 -- The People v. Timothy Charles Giangibbe.**

The judgment is reversed. Margulies, J. I concur: Swager, J. (See dissenting opinion by Marchiano, P.J.) (Not for Publication.)

Division Two

**A095643 -- The People v. Robert Jessie Cruz, Jr.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A098671 -- The People v. Patrick Lawayne Perry.**

The portion of the judgment pertaining to conduct is reversed and the matter is remanded to the trial court for a noticed hearing on conduct credits in accordance with this opinion. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A100272 -- In re the Marriage of Lanei M. Stringer and David M. Stringer.<sup>3</sup>**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

June 24, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Simons, J., Gemello J., and Mary P. Quilez, Deputy Clerk.

- A098371     Donald Raley, et al.  
                 v.  
                 Alan Cerf, et al.  
                 Cause called and argued by Robert Alfred-Sam Bleicher, counsel for appellants, and by Michael D. Meadows, counsel for respondents. Cause ordered submitted.
- A098373     Donald Raley, et al.  
                 v.  
                 Sunset Financial Services, et al.  
                 Cause called and argued by Robert Phillips, counsel for appellants, and by Michael D. Meadows, counsel for respondents. Cause ordered submitted.
- A098729     J. H. McKnight Ranch, Inc.  
                 v.  
                 Franchise Tax Board  
                 Cause called and argued by David Lew, counsel for appellant, and by Paul D. Fogel, counsel for respondent. Cause ordered submitted.
- A098973     Patricia Dobson  
                 v.  
                 Noemi Dixson-Hoffman  
                 Cause called and argued by Merrill Glen Emerick, counsel for appellant, and by Richard R. Herzog, counsel for respondent. Cause ordered submitted.

- A101128 Medical Board of California  
v.  
The Superior Court of San Francisco County  
Lee Roy Liskey, M.D.  
Cause called and argued by Thomas P. Reilly, Deputy Attorney General, counsel for petitioner, and by Mortimer H. Herzstein, counsel for real party in interest. Cause ordered submitted.
- A098223 Siamak Safaeian  
v.  
Managed Health Network, Inc. et al.  
Cause called and argued by Ted W. Pelletier, counsel for appellant, and by Maureen Karen Bogue, counsel for respondents. Cause ordered submitted.
- A100861 Donald Barker, et al.  
v.  
Highland Hospital, et al.  
Cause called and argued by Thomas M. Burton, counsel for appellants, and by Lora Vail French, counsel for respondents. Cause ordered submitted.
- A098786 The People  
v.  
Donald Rudolph  
Cause called and argued by Robert W. Gehring, counsel for appellant, and by Martin S. Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A098703 The People  
v.  
Thomas Foote Riseley  
Cause called and argued by Alan Siraco, counsel for appellant, and by Violet M. Lee, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:30 p.m.

Wednesday, June 25, 2003

Division One

**A099737 -- Information Systems and Networks Corporation v. Berg & Parker.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A099505 -- The People v. Bonnie A. Karnsouvang.**

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

**A101296 -- The People v. Anthony Lofton.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, June 26, 2003

Division One

**A100227 -- In re Asherdee A., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Bridget A. et al.**

The order terminating parental rights is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A101343 -- Estate of Miguel Rossello, Jr., Deceased.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Three

**A101178 -- In re Anthony H., a Person Coming Under the Juvenile Court Law. The People v. Anthony H.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Thursday, June 26, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli, J., Pollak, J. and I. Calanoc, Deputy Clerk.

A099981    Andrea Schucker Haws,  
                  v.  
                  James Raymond Hastings.

Cause called and argued by appellant James Hastings; and Nancy Field,  
counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.



Thursday, June 26, 2003 (continued)

Division Four

**A099997 -- The People v. German Betancourt.**

The judgment is modified to reflect that the sentence on count 4 is stayed pursuant to section 654. The court will prepare a modified abstract of judgment and serve the same upon the Department of Corrections. In all other respects the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A100755 -- In re Krishna L.C., et al., Persons Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Romualda T.**

The order is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A099082 -- The People v. Sergio Huerta.**

In a felony case, the trial court must impose a restitution fine. The amount of that fine is left to the discretion of the trial court, but may not exceed \$10,000. (See § 1202.4, subd. (b).) In this case, the court imposed a fine of \$10,000, then an additional fine of \$1,000. The second fine was imposed in excess of the discretion vested in the trial court pursuant to former section 1202.4. (See *People v. Blackburn* (1999) 72 Cal.App.4th 1520, 1534.) The Attorney General concedes the error, and we agree that the \$1,000 fine must be stricken. The trial court shall issue an amended abstract of judgment reflecting the correct restitution fine. (See *People v. Ngaue* (1992) 8 Cal.App.4th 896, 899, 907.) As modified, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A100780 -- Araceli Martinez v. Univision Television Group et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A100176 -- Gary Roberson v. James P. Mills et al.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, June 26, 2003 (continued)

Division Five

**A099508 -- The People v. Terrence Davis.**

The judgment of conviction is affirmed. Stevens, Acting P.J. We Concur:  
Simons, J., Gemello, J. (Not for Publication.)

**A098223 -- Siamak Safaeian v. Managed Health Network, Inc.**

The judgment of dismissal is affirmed. Stevens, Acting P.J. We Concur:  
Simons, J., Gemello, J. (Not for Publication.)

Friday, June 27, 2003

Division One

**A100327 -- Communities For a Better Environment, et al. v. California State Water Resources Control Board, et al., Tesoro Refining and Marketing Company, R.P.I.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A098335 -- John Crivello and Gloria Crivello v. Bethel Island Municipal Improvement District et al.**

The order is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

**A100048 -- Micheline Benoit v. Eddy Benoit.**

The judgment is affirmed. Respondent shall recover her costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A094398 -- McCubbrey, Bartles & Ward et al. v. D'Amato & Lynch.  
A095856 & A098362 -- McCubbrey, Bartles & Ward et al. v. Lewis  
D'Amato, Brisbois & Bisgaard et al.**

The post-judgment cost order is modified to strike the \$8,298.59 in expert fees awarded under section 473. In all other aspects, the order is affirmed. Respondents are to recover their costs on appeal. Corrigan, Acting P.J. We Concur: Parrilli, J., Simons, J.\* (Not for Publication.)

\*Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A102268 -- Brenda Smith v. Appleton Papers, Inc., et al.**

The motion to dismiss the appeal is granted. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Friday, June 27, 2003 (continued)

Division Four

**A100644 -- In re Thomas H., a Person Coming Under the Juvenile Court Law. The People v. Thomas H.**

The jurisdictional and dispositional orders are affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A097950 -- Gary Macomber v. Beverly Healthcare et al.**

The order granting the motion to strike and awarding fees under the anti-SLAPP suit is reversed. The judgment of dismissal is affirmed. Costs on appeal to respondents. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A098973 -- Estate of Leon Richardson, Deceased.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A098786 -- The People v. Donald Rudolph.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Monday, June 30, 2003

Division One

**A100907 -- In re Brittany C., a Person Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. Christine C.**

Accordingly, the order from which appeal has been taken is reversed, and the case is remanded to the juvenile court for two very limited purposes: First, for respondent to file and the juvenile court to receive and review the notices and return receipts or other responses from the tribes, and determine upon remand whether the notice provisions of the ICWA have been satisfied. If the notices sent by respondent are found to comply with the ICWA, the order that terminated appellant's parental rights and provided a permanent plan of adoption for Brittany is reinstated. And second, for the court to review the record and clarify the visitation order. We direct the juvenile court to comply with the directions specified in this remand at the earliest possible convenience. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A100511 -- Quinette M. Ozen et al. v. Roosevelt Richardson, Jr. et al.**

The appeal is dismissed. Respondents shall recover costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A099119 -- The People v. Erick Sherman.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A099843 -- In re David C., a Person Coming Under the Juvenile Court Law. The People v. David C.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Monday, June 30, 2003 (continued)

Division Three

**A099676 -- In re Omani B., a Person Coming Under the Juvenile Court Law. Solano County Social Services Department v. Johnny B.**

The orders of the trial court are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A102178 -- Lydia Dittmeier v. Mendocino County Animal Control.**

The appeal is dismissed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A100036 -- In re Cora H., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Pamela M.**

The appeal is dismissed as moot. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A099981 -- Andrea Schucker Haws v. James R. Hastings.**

The judgment is affirmed. Haws shall recover her costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A100143 -- In re Austin L. & Brandon L., Persons Coming Under the Juvenile Court Law. Solano County Dept. of Health And Social Services v. Janette W.**

The orders of the juvenile court are affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A097853 -- Longs Drug Store et al. v. Workers' Compensation Appeals Board and Jeanne Hale.**

The decision of the Board is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Monday, June 30, 2003 (continued)

**A099121 -- The People v. Matthew S. Marchi.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A099434 -- In re Jontue W., a Person Coming Under the Juvenile Court Law. The People v. Jontue W.**

The orders of the juvenile court are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

**A098114 -- Jeff Kamler and United Professors of Marin, American Federation of Teachers, Local 1610 v. Marin Community College District et al.**

The judgment is reversed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A095055 -- The People v. Quincy Robertson.**

The judgment is affirmed. Kay, P.J. I Concur: Rivera, J. (See concurring opinion by Reardon, J.) (Certified for Partial Publication.)

**A097340 -- The People v. George Yonko.**

The judgment is modified to reduce the portion of the restitution order attributable to James Woods's loss to \$5,000. In all other respects, the judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A098703 -- The People v. Thomas Foote Riseley.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)